

# Comprehension

## PROMOTED.

Whether there be not as much reason, in regard to the ease of the most sober Consciences, to take away the Subscription in the Act of Uniformity, as well as the Declaration of Assent and Consent?

**T**Hough I am a person who according to my Genius, and the Preparation of my Studies should be apt to offer something to the Nonconformist for their Compliance at this time with the Church in general as Protestants; rather than discourage any body with Scruples. Yet do I see reason under this present Juncture of Affairs, and the kind Inclinations of the House toward Union in their voting away the Declaration of Assent and Consent; to represent also the Subscription in the same Act, and the Oath imposed in the Act at Oxford for the like redress, unto their tender Considerations.

## THE SUBSCRIPTION.

**I** A. B. do declare, That it is not lawful upon any pretence whatsoever, to take Arms against the KING. And that I do abhor that Trayterous Position of taking Arms by his Authority against his Person, or against those that are Commissionated by him. And that I will conform to the Liturgy of the Church of England, as it is now by Law established. And I do declare that I do hold, there lyes no Obligation upon me, or any other person from the Oath, commonly called the Solemn League and Covenant, to endeavour any change or alteration of Government, either in Church or State, and that the same was in it self an unlawful Oath, and imposed

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upon

upon the Subjects of this Realm against the known Laws and Liberties of this Kingdom.

## THE OATH.

**I** A. B. do swear, That it is not lawful upon any pretence whatsoever to take Arms against the KING. And that I do abhor that Trayterous Position of taking Arms by his Authority against his Person, or against those that are Commissioned by him in pursuance of such Commissions: And that I will not at any time endeavour any alteration of Government, either in Church or State.

In this Oath and Subscription, we have the Matter and the Form of words; that is, the Substance, and the Composure. And the one and the other, in both, are lyable to the ensuing Exceptions.

To begin with the Oath. Here are three parts of it: The first part, appears not consistent with Judgment; the second, with Truth; nor the last, with Righteousness.

I will take up the last part first. And I will not endeavour any Alteration of Government. There is no Government on earth is so perfect, that it hath need of Laws like the Medes and Persians. Alteration of Laws, and so Government (in the Administration) is as necessary many times, upon emergent occasions, to the Politick Body, as the fresh Air is to the Natural. This Oath was brought into the House to have been made common. It were not a thing Righteous, to have had that Engagement laid on persons, in such a capacity; it is not Righteous to have it laid on any who are Free-Holders, and Free-Subjects, as we are. The Constitution of our Nation, as Parliamentary, is such, That no Law can be Established, or Repealed, but it must pass the House of Commons, and so the whole Body doth concur in their Representatives, to every Alteration of Government that is made, if it be Legal: And no House of Commons are chosen but by the People. Every English man is intended to be there present, either in Person, or by Procuration; and the consent of the Parliament, is taken to be every mans consent, says Sir Thomas Smith *De Rep. Ang. l. 2. c. 2.* Nay while the King, *Consilio & assensu Baronum, leges olim imposuit universo Regno*, consensire inferior quisque visus est in persona Domini sui capitalis, prout hodie per procuratores Comitatus, By the Counsel and Assent of his Barons did give Laws to his whole Realm, every inferior seemed to consent in the person of his chief Lord, as now they do by their Burgeses, and Knights of the Shires, says Sir Henry Spelman. This is so true, that in this sense it is, that the Laws that pass, are said to be *Quas vulgus elegerit*, Which the people shall chuse. Now then if every Free-Subject hath a fundamental Liberty to chuse Knights, and Burgeses, and



and accordingly to inform them of their Grievances, and petition them for Redress; and in them, as their Representatives, do consent to the Alteration of Government and Laws, as are profitable for the Nation, how can such an Oath be imposed on any, that they will not *endeavour any Alteration*, as this is? Is not chusing Burgesses, informing them, petitioning them, acting, and legally consenting, in them, to that end, an *Endeavour*? and that as much as can be in their place and calling? And no more than an *endeavour in their place and calling* was challenged by any. Is not the Foundation-Liberty of the whole people, and our selves with them, here in danger? Judge ye that are Wise.

For the *Words* then (or *Form*), I wonder at this rigour in the Compiler, that a man must swear, not to endeavour *any* alteration. Had it not been enough to be engaged, not to endeavour the alteration of the *Substance* of our Government, *Episcopacy* in the Church, and *Monarchy* in the State, but must it be *not any alteration*? It were well we were so absolutely perfect. And again, must they not at *any time* endeavour any alteration? What if Times should turn, and we be in as great a confusion as we were, or any the like chance or change come? Must these men be bound up, that they cannot endeavour to reduce back this Government that we now have? No, not the King and Bishops, if the iniquity of the Times should put them out; for they have sworn, they will not at *any time endeavour any alteration* in Church or State. Sirs! The *Matter* of this Obligation being against the Fundamental-Freedom of the Subject, and Parliament; and the *Words*, as you see, so ensnaring, and that against that duty all owe to the Publick Good; I offer it you to consider in the first place, Whether this *last* part be according to *Righteousness*?

For the *middle* part of the Oath: Here is a *Position* of taking Arms by the Kings Authority against any Commissioned by him; which must be sworn to, as *abhor'd*, and *trayterous*. There is now a case in the mouths of all the understanding Refusers of the Oath, or Subscription. Suppose some *Writ* sued out, and comes to the *Sheriff's* hands, and suppose some to oppose the execution by the Kings personal Command or Commission, and he thereupon raises the *Posse Comitatus* upon them. I will ask here, Whether the *Sheriff* acts not herein by the Kings Authority? I think it cannot be denied. By the Kings Authority, is all one as, by the Law, or in the Name of the King according to Law. And when he can act so against any for all their Commission, and the Law will bear him out, how is this *Position* in this case *trayterous*, and to be *abhor'd*? For my part, I do resolutely believe, that it was not ever the Intent of the Parliament, in this Oath, or the Subscription, (as to the major part, we may be bold) to ad-

vant the personal Will or Commission of the King above Law, which were to make his Power Despotick, and not Royal: *Non est Rex* (says *Bracton*) *ubi Dominatur voluntas non Lex*; He is not a King that governs by his Will, and not by the Law. And how this Position indefinitely (without exception of this case at least) must be sworn to, as altogether trayterous I am to learn. The Courts of Law cannot void the Kings Charters or Commissions, which are passed against him; for the King is subject to the Law, and sworn to maintain it, says Judge *Jenkins* in his Works, p. 48. As for the *Eggr* then of the words, *I abhor this trayterous Position*; they are harsh; the word *abhor* especially, is a word of Interest and Passion; a cooler word, as, I disown, or disallow, might have served. Some of the more grave (as *Calamy* particularly) were much offended at that word. I may say a thing is unlawful in my Conscience, when I cannot say according to truth, *I abhor it*. There is never a Gentleman in the Land, but may swear truly, that he believes it unlawful to company with any other Woman, as his own Wife, but if each one were put to swear he *abhors* it, I suppose some very good Sons of the Church, as well as Brethren, would be found willing to be Non-conformists to such an Oath. Well Sirs! When these words *Abhor* and *Trayterous*, are so harsh in the Composure, and when there is such a case, and the like perhaps to it, may be put as to the Position in the Matter of it, wherein it seems justifiable, and without offence; I offer it in the next place to consideration, Whether this middle part of the Oath and Subscription be according to Truth? *Veritas* &c.

For the first part, we have a large assertion roundly sworn. The Oath and Subscription runs not only that it is not lawful to take Arms against the King, or that it is not lawful on any pretence, but on any pretence (or cause) whatsoever. The Grammatical literal construction of that word seems to intimate no less than that this Proposition must be held without restraint or limitation. Among the most eminent of Authors, who have wrote for the power of Princes, and establish it against resistance in their writing on this subject, I suppose there are few or none to be valued above these three, *Barclay*, *Grotius*, *Arniseus*. And we shall find that they have all their restrictions, or cases of exception in the maintenance of this tenet. And how shall any be over-earnest here to punish the refuser, when if the matter be scan'd, the reason perhaps why he refuses will be found only because he hath read more than some others that yield their submission. I begin with *Barclay*, that is *William Barclay* a Scot, and Counsellor to the King of France; who writes against *Bucabius Bomber*; and other *Monarchomasts*, as he calls them. This

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learned man endeavours to make his Prince to be above the whole People. That consequently no Arms can be taken against him; nevertheless when he comes to put some prelling cases, he thus limits himself. *Quid ergo, nulli ne casus incidere possunt, quibus populo in Regem arma capere jure suo liceat? Nulli certe quamdiu Rex manet.* What then? Can there no cases happen wherein it is lawful for the People to take arms against the King by right? None certainly so long as he remains a King. There are cases indeed he accounts in which a King does exuere personam Regis, or, dominatu se exuere; put off the person of a King. And particularly (l. 3. c. 16.) he mentions two. *Si Regnum alienet; Si Rempublicam evertere conetur.* If he go to alienate his Kingdom; If he go to overthrow the Commonwealth. I do not say I approve this Doctrine. The Papists use the same we know in another case. We may not fight against our King; but if the Pope Excommunicate him, he shall be no King with them. Let us come to Grotius, and first quote him in his judgment of Barclay, lest you may think else I mistake him. Barclay (says he) *Regii imperii licet assertor fortissimus, huc tamen descendit, ut Populo & insigni ejus parti jus concedit se tuendi adversus immanem sevitiā.* Barclay, though the most strong assertor of Kingly Government, does descend to this; that he grants a right to the People, or the most eminent part of them, of defending themselves against intollerable oppression. For himself then after he hath asserted this Tenet, *Summum imperium tenentibus jure resisti non posse.* That the higher Powers may not lawfully be resisted, from Scripture, Antiquity, Authority and Example, so far as much purpose perhaps as any, he comes to put seven Cases wherein he does *Lectores monere ne putet in hanc legem delinquere eos qui revera non delinquent,* I warn his Reader lest he mistake some for Delinquents, that are not. For Arniseus he hath wrote three learned Books of Politicks, *De Jure Majestatis. De Doctrina Politica. De Autoritate Principum in Populum semper inviolabili; seu. Quod nulla ex causa subditis fas sit contra legitimum Principem arma sumere.* That the Authority of Princes over the People ought to be inviolable; or, That it is lawful for no cause to take up Arms against our lawful Prince. Here then we have our Tenet; In the state whereof, he comes in the issue to distinguish between Rex and Tyrannus, A King and a Tyrant. *Tyrannus in Titulo, & Tyrannus in exercitio.* A Tyrant in Title, and in Practise. And *Tyrannus in Exercitio* he counts *de excidere de jure eisi hereditario.* Does fall from his right, though hereditary. *Traditur Respublica Principi in eum finem* (says he) *ut illi presit in salutem omnium, a quo si prorsus desciverit etiam de potestate cadit, quam non alio sine sibi commissam habebat.* The Commonwealth is delivered to the Prince that he should rule over it for the common safety, from which if he departs

altogether, be falls even from the power it self which was committed to him only for this end. By such Testimonies as these, without naming others, I would convince those persons who were the Compilers of these Declarations, to be subscribed, or sworn, with some resentment, that when the sense and meaning of them is such as we are not like to boggle at, they should be yet composed so in *terminis*, as to be obnoxious to so grand Exception.

For the form then yet of the words, *I A. B. do swear that it is not lawful, &c.* Here is an Oath to the *matter of a Proposition*, and that questioned; to the determination of a point of Conscience, and that diversly decided. An Oath should be to a *matter of Fact*, and cannot be taken but to that, whercof we are certain. To require of men therefore to swear to the Verity of a Doctrinal Proposition, is not according to *judgment*, being a thing impossible, because no man is infallible. Now Sirs then, when here is such an Erratum in the *Composure* as the want of the words, *I believe*, or the like. *I swear that I hold, or beleave, that it is not lawful, &c.* And so material an exception as the judgment of the most learned in general comes to, against the Substance in *terminis* of the first part of this Oath, which yet goes down most ordinarily without chewing, I humbly offer it in the third place to be considered, how this Oath can be taken either in Truth, or Judgment? An Oath must be taken in Judgment, in Truth, and in Righteousness. The first part (I argue) is not according to *Judgment*; the second not according to *Truth*; the third not according to *Righteousness*.

I proceed to the *Subscription*.

This hath two parts. The one is the Purport of the Oath; of which therefore I shall add no more, but this, That when the matter of the one and the other in the former part thereof, is such as enters the foundation of Politicks in general, and the Laws, and State of our Land in particular (which is *Basileia iuxta*, a Kingdom regulated by Laws, as Sir Thomas Smith has it. *Rex sub Deo & sub Lege*, The King is under God and the Law, says Hooker and Bracton.), So that it requires the skill of the greatest Judges, Sergeants, and Sages of the Law to determine the cases included in it, every poor silly Minister is put to decide the same for himself, and to have that evidence therein, as to be able to take his Oath, or give his hand to the certainty of it. The other part of the Subscription concerns the Covenant, where the words [*nor any other*] are such a Ford, that (as to the Consciences of all not thoroughly Episcopal) so far as I see, is unpassable. It is nothing to me to subscribe there lies no obligation on me from the Covenant to endeavour any alteration of Government,



ment, because I never took it, it was against my Conscience, and I can conceive for others in a *private* capacity what have they to do with Government? No Oath can bind to sedition and disobedience. But as for such who are in a *publick* capacity and can act lawfully toward Reformation in their place: What shall I say to those? One way there is indeed will strike off all, and that is, to hold the present Government established to be *Jure Divino* altogether, so that any alteration is sin. He that holds thus may affirm clearly that though a man swear he would endeavour to alter the Government, it binds him nothing, let him be in what capacity he will; the least alteration is unlawful, and he must therefore repent of his Oath, and not perform it. But if a man hold that the *Presbyterean* Government is rather *Jure Divino*; or that neither *Episcopal* nor *Presbyterean* is *Jure Divino*. Or that *Episcopal* Government is well, yet that *ours* as it is now, is not altogether so well, but that something may be altered for the better; I would fain be informed how such a man can *absolve* him who is in a publick capacity (as a Parliament man), from his endeavouring so much, according to time and prudence, if he hath sworn before that he will. It is in vain to hide where the water sticks. There are some cannot tell how to absolve *One other* for their lives. I say not there lies an Obligation on any to do as they have sworn, for fear it be dangerous; and I dare not say there lies *none*, because I fear God. But this I may say, that I desire to be instructed; and this I will say, that it is a hard thing to be put on it, to say that there lies no Obligation upon any other but our selves, whether there does or no. To relieve us in this Grievance, and others of the like nature with this, I propose this remedy, to wit, That those Declarations which are required of the Nonconformist, to be made, subscribed, or sworn, may be imposed only in the *matter and end*, and so long as he comes up in his sense and meaning to give satisfaction therein, he may be left to the liberty of using his own expressions.

To conclude, There are many have been hugely sensible that the *Papists* at this season were borrowing a *Helve* for their *Hatchet* out of the *Wood* of the *Fanatics*; and that if they came to obtain their purpose, it is not hard to conjecture which *Trees* were like to go down afterwards, one with another. If it shall please the Parliament therefore, now to proceed with vigour, to an *establishment by Law* of the moderate and sober *Protestant*, that can unite in our Parochial Congregations, to out-balance both these Extremities. And if those persons who preach the Gospel to others could be perswaded to put the great  
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